IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2375 of 2005

Shri Bilpinkumar Hawaldar Jaiswar)
Chief Promoter, Babu Jagjivan Nagar)
CHS (Proposed) & Others.)..PETITIONERS.

Versus

The State of Maharashtara & Ors.)..RESPONDENTS

Mr. Ram Urgrah Singh, for the Petitioners
Mr.A.A. Bookwala with Mr. G.D. Utangale i/b. Utangale & Co., for the Respondent No.2.
Mr. D.H. Mehta i/b. C.N. Gole, for Respondent No.7.
Mr. R.M. Kadam, Advocate Generalwith Mr.P.P. Jadhav, AGP for Respondent No.1.
Ms. Shobha Ajitkumar for B.M.C. Respondent No.4.
Mr. Vinod L. Desai, for Respondent No.10.
Mr.Atul Rajadyaksha with Mr. Mohan N. Dhamal, for Respondent No.6.

WITH

WRIT PETITION LODGING NO.2711 OF 2005

Panchtatva CHS & Ors.)..PETITIONERS

Versus

The State of Maharashtara & Ors)..RESPONDENTS

Mr.A.P. Steenson for the Petitioner.
Mr.A.A. Bookwala with Mr. G.D. Utangale i/b. Utangale & Co., for the Respondent No.2 and 3.
Mr. R.M. Kadam, Advocate Generalwith Mr.P.P. Jadhav, AGP for Respondent No.1.
Ms. Shobha Ajitkumar for B.M.C. Respondent No.4.
Mr. S.G. Surana with Mr. C.N. Gole for Respondent No.6.

WITH

WRIT PETITION LODGING NO.2712 OF 2005

Jaihanuman CHS & Ors.)..PETITIONERS

Versus

The State of Maharashtara & Ors.)..RESPONDENTS

Mr. R.P. Singh, for the Petitioner.
Mr.A.A. Bookwala with Mr. G.D. Utangale i/b. Utangale & Co., for the Respondent No.2 and 3
Mr. R.M. Kadam, Advocate Generalwith Mr.P.P. Jadhav, AGP for Respondent No.1.
Ms. Shobha Ajitkumar for B.M.C. Respondent No.4.

Mr.S.G. Surana i/b.C.N. Gole for Respondent No.6.

CORAM: F.I. REBELLO &
MRS. R.S.DALVI, JJ.
DATE : 16TH DECEMBER, 2005

P.C.

. These are usual petitions which come up before this Court which are proxy battles between Builders for development of S.R.A.Scheme. The State of Maharashtra has framed Regulations for framing S.R.A. Schemes under which the slum dwellers are entitled to 225 sq. ft. area in buildings constructed under the S.R.A. Scheme. The respondent No.6 had applied under the S.R.A. scheme contending that they satisfy the criteria for forming a society and apply for a scheme. The Society has been registered and a S.R.A. Scheme had been sanctioned.

. The petitioners herein contend that they have formed another Society. The petitioner Nos. 2, 3 and 4 in Writ Petition No.2375 of 2005 are also persons who are eligible for the benefits of the S.R.A. Scheme. They had earlier approached this Court by a Writ Petition being Writ Petition No.2694 of 2003. When the petition came up before this Court it was pointed out to the Court that the State Government had framed a new policy dated 4th February, 2004 for slum redevelopment in Dharavi area. In view of the said statement Counsel for the petitioners withdrew that petition. Liberty was granted to the petitioners to submit a scheme in terms of the new policy, if so advised. The petition was allowed to be withdrawn.

. In fact the Government on 4th February, 2004 took a decision to frame a scheme known as Dharavi Development Scheme. The Scheme was to be implemented in terms of what is set out therein. The scheme also contemplated that the Dharavi Development Project would be operated on the same principles of existing Slum Rehabilitation Scheme however, international tenders will be called and entire area would be divided into different sectors for the purpose of implementing the scheme. A Secretarial Committee was appointed for the purpose of considering the global tenders which were called. The LOI issued lapsed on account of the scheme not being implemented. The respondent No.6, in the affidavit filed before this Court, has further set out that though the petitioners claimed membership of those 225 yet in the year 2001 out of 225 members, 166 members have entered into agreement with them and as of today 182 Agreements have been entered into. Counsel for the petitioner disputes it on the ground that that may be either forged or taken by taking advantage of the poverty of those slum dwellers.

2. What we are really concerned is whether the matter needs interference by this Court. As set out in the earlier part of this order the extra ordinary jurisdiction of this Court cannot be used to defeat the aims and object of the Act and deny decent housing to those who are to be benefitted by the scheme. Ultimately these schemes are part of right to life for the slum dwellers and Courts must bear in mind their right for decent housing. In these circumstances any action which mayresult in delay in providing decent housing to slum dwellers, does not warrant consideration by this Court in the

exercise of its extra ordinary jurisdiction.

3. The only point canvassed on behalf of the petitioners is that they had withdrawn the earlier petition with the expectation that they will be able to participate in the the tenders to be floated for the new scheme . The S.R.A. Regulations are still in force. The S.R.A. Rules and Regulations have not been amended. All that has happened is that the Government has taken a policy decision. The new scheme has not yet been introduced. In the meantime the Government has taken a decision to allow the S.R.A. Scheme which had already been sanctioned to be implemented. We see no reason as to why the decision taken, namely for allowing those societies which have been registered earlier to commence and complete the projects should be interfered with. Atleast this Court will be slow in taking such decisions considering the aims and objects of the project for rehabilitation of the slum dwellers.

4. In our opinion considering the facts and as a substantial number of persons whom the petitioners claim to represent, are already members of the respondent NO.6 and further as respondent No.6 is bound to give accommodation to all along with persons for the scheme which covers C.S. No.18 (Part), 509(Part), we see no reason why this Court should interfere with the permission given to the respondent No.6.

. The issues involved in the other two petitions are connected with Writ Petition NO.2375 of 2005. The entire area is occupied by 449 slum dwellers. The respondent NO.6 would

be bound to rehabilitate all all eligible persons from the 449 slum dwellers and any other eligible persons if the Authority comes to the conclusion that they are also to be rehabilitated. Out of the 449 persons 411 persons have been held to be eligible presently.

5. With the above observations, and as we find no merit in these petitions the petitions stand dismissed.

(F.I. REBELLO, J.)

(MRS.R.S.DALVI.J)